



General Assembly

***Amendment***

February Session, 2002

LCO No. 3344

\*HB0540703344HD0\*

Offered by:

REP. DAVIS, 50<sup>th</sup> Dist.

REP. FONTANA, 87<sup>th</sup> Dist.

To: Subst. House Bill No. 5407

File No. 265

Cal. No. 160

***"AN ACT CONCERNING LOCAL PARTICIPATION IN THE SITING  
OF CELLULAR TOWERS."***

1 Strike out lines 1 to 236, inclusive, and insert the following in lieu  
2 thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) As used in sections 1 to  
4 5, inclusive, and sections 7 and 8 of this act, subsection (f) of section 8-  
5 7d of the general statutes, as amended by this act, section 16-50i of the  
6 general statutes, as amended by this act, and subsection (d) of section  
7 16-50t of the general statutes, as amended by this act, "personal  
8 wireless services" means personal wireless services, as defined in 47  
9 USC 332(c)(7), as amended, and "telecommunications tower" means a  
10 structure, free-standing or attached to a building or another structure,  
11 that (1) has a height greater than its diameter, (2) rises above its  
12 surroundings, and (3) is used principally to support one or more  
13 antennas for (A) sending or receiving signals to or from satellites, (B)  
14 receiving or sending radio frequency signals, and (C) personal wireless

15 services.

16 (b) The zoning commission of each municipality may regulate, as  
17 part of the zoning regulations adopted under section 8-2 of the general  
18 statutes or under any special act, the siting of telecommunications  
19 towers, provided the regulations adopted pursuant to this section are  
20 adopted on or before February 1, 2003, and are in compliance with 47  
21 USC 332(c)(7), as amended, and any regulations adopted pursuant to  
22 said 47 USC 332(c)(7). Such zoning regulations shall be in addition to  
23 the zoning requirements, standards and criteria adopted pursuant to  
24 section 8-2 of the general statutes. Regulations adopted pursuant to  
25 this section shall be effective February 1, 2003.

26 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding the  
27 provisions of section 16-50i of the general statutes, as amended by this  
28 act, the Connecticut Siting Council shall not have jurisdiction after  
29 February 1, 2003, over the siting of telecommunications towers  
30 proposed to be located in a municipality if such municipality adopts  
31 zoning regulations pursuant to section 1 of this act on or before  
32 February 1, 2003.

33 (b) Notwithstanding the provisions of this section and section 16-50i  
34 of the general statutes, as amended by this act, the Connecticut Siting  
35 Council shall not have jurisdiction over the siting of  
36 telecommunications towers in any municipality whose zoning  
37 commission adopted regulations that specifically addressed  
38 telecommunications towers pursuant to section 8-2 of the general  
39 statutes on or before the effective date of this act.

40 Sec. 3. (NEW) (*Effective from passage*) (a) The chief elected official of  
41 each municipality shall file, annually, with the Connecticut Siting  
42 Council, electronically or otherwise, a report containing the location,  
43 type and height of each existing and proposed telecommunications  
44 tower in such municipality.

45 (b) On or before December 1, 2002, the Connecticut Siting Council  
46 shall develop, maintain and update monthly a state-wide

47 telecommunications coverage database that includes the location, type  
48 and height of all telecommunications towers in the state, as well as  
49 those towers specified in subdivision (6) of subsection (a) of section 16-  
50 50i of the general statutes, as amended by this act. Such database shall  
51 be available for inspection by the public in hard copy and shall be  
52 accessible electronically by means of the Internet or other media  
53 systems available to the public. Upon request of a municipality, the  
54 council shall supply any information contained in the database to the  
55 municipality.

56 (c) On or before July 1, 2003, the Connecticut Siting Council shall  
57 develop a plan for state-wide telecommunications coverage and  
58 annually shall review and revise such plan as necessary. The plan shall  
59 be consistent with the federal Telecommunications Act of 1996, as  
60 amended, and with the tower sharing provisions of section 16-50aa of  
61 the general statutes. The plan shall contain information on population  
62 growth in the state and an analysis of existing and projected demands  
63 for telecommunications coverage. On or before October 1, 2003, the  
64 Connecticut Siting Council shall supply all information contained in  
65 such plan concerning a municipality and its abutting or adjoining  
66 municipalities to each municipality that adopts zoning regulations  
67 pursuant to section 1 of this act.

68 (d) On or before April 1, 2004, each municipality that adopts zoning  
69 regulations pursuant to section 1 of this act shall develop a municipal  
70 telecommunications coverage plan. Such plan shall consider the  
71 information provided to the municipality pursuant to subsection (c) of  
72 this section, and shall include the mapping of all existing  
73 telecommunications towers, radio frequency propagation modeling of  
74 existing coverage, hypothetical coverage from alternative sites, and  
75 identification of sensitive areas for restrictive use. The plan may  
76 delineate one or more areas of the municipality within which  
77 applications for the siting of telecommunications towers that meet pre-  
78 established criteria shall receive accelerated approval. Such plan shall  
79 be consistent with (1) 47 USC 332(c)(7), as amended, and any  
80 regulations adopted pursuant to said USC 332(c)(7), (2) the Code of

81 Federal Regulations Title 47, Part 22, as amended, (3) tower sharing  
82 provisions of section 16-50aa of the general statutes, and (4) the state-  
83 wide telecommunications coverage plan adopted by the Connecticut  
84 Siting Council pursuant to subsection (c) of this section. At the request  
85 of a municipality, the Connecticut Siting Council shall provide  
86 technical assistance to the municipality in preparing a plan under this  
87 subsection.

88 Sec. 4. (NEW) (*Effective from passage*) (a) An applicant that proposes  
89 to locate a telecommunications tower in a municipality that has  
90 adopted regulations pursuant to section 1 of this act shall first submit  
91 its application for such telecommunications tower to the Connecticut  
92 Siting Council for an evaluation of public need for such tower.  
93 Jurisdiction of the Connecticut Siting Council over such application  
94 shall be limited to the issuance of an opinion of public need for such  
95 tower.

96 (b) The Connecticut Siting Council shall complete an evaluation of  
97 public need not more than thirty days after submission of an  
98 application. A copy of the opinion shall be sent by the council by  
99 certified mail, return receipt requested, to the applicant and the  
100 municipality in which the proposed tower is to be located. An  
101 applicant may submit an application to locate a telecommunications  
102 tower to the municipality only if the Connecticut Siting Council issues  
103 an opinion of public need for such telecommunications tower. If the  
104 opinion of the council is that there is no public need, the applicant may  
105 not submit the application to the municipality. If the opinion of the  
106 Connecticut Siting Council states there is a public need for the  
107 proposed telecommunications tower, such opinion shall not constitute  
108 approval of such application.

109 (c) Any applicant aggrieved by an opinion of the Connecticut Siting  
110 Council under this section may take an appeal in accordance with  
111 section 4-183 of the general statutes to the judicial district for the  
112 municipality in which the telecommunications tower is proposed to be  
113 located. If the court finds for the applicant, the applicant may submit

114 an application to locate the telecommunications tower to the  
115 municipality along with a copy of the decision of the court.

116 Sec. 5. (NEW) (*Effective from passage*) (a) An application for siting of a  
117 telecommunications tower shall be approved by a municipality's  
118 zoning commission if such application is consistent with (1) the  
119 municipal telecommunications coverage plan, developed pursuant to  
120 section 3 of this act, (2) the zoning regulations of the municipality  
121 adopted pursuant to section 1 of this act, and (3) the provisions of 47  
122 USC 332(c)(7), as amended.

123 (b) The Connecticut Siting Council shall be a party in any  
124 proceeding on an application to a municipality for the siting of a  
125 telecommunications tower.

126 (c) Any approval by a zoning commission of an application under  
127 regulations adopted pursuant to section 1 of this act shall be rendered  
128 in accordance with and subject to the provisions of chapter 124 of the  
129 general statutes, except that, notwithstanding the provisions of section  
130 8-8 of the general statutes, as amended, an appeal shall be limited to  
131 whether (1) the municipality has a telecommunications coverage plan  
132 pursuant to section 3 of this act, and (2) the decision is consistent with  
133 47 USC 332(c)(7), as amended, and any regulations adopted pursuant  
134 to USC 332(c)(7). The aggrieved party shall have the burden of proof in  
135 any such appeal.

136 (d) Notwithstanding the provisions of this section, a municipality  
137 that adopts zoning regulations pursuant to section 1 of this act but fails  
138 to develop a municipal telecommunications coverage plan pursuant to  
139 section 3 of this act shall have the burden of proof in any appeal.

140 Sec. 6. Section 8-7d of the general statutes is amended by adding  
141 subsection (f) as follows (*Effective from passage*):

142 (NEW) (f) Notwithstanding the provisions of this section, if an  
143 application involves the siting of a telecommunications tower pursuant  
144 to regulations adopted under section 1 of this act, any hearing on such

145 application shall commence not later than thirty-five days after receipt  
146 of such application, and shall be completed not later than thirty days  
147 after such hearing commences. Any decision on such application shall  
148 be rendered not later than one hundred fifty days after receipt of such  
149 application. The provisions of this subsection shall not be construed to  
150 apply to any extension consented to by an applicant.

151 Sec. 7. (NEW) (*Effective from passage*) The Connecticut Siting Council  
152 shall develop, maintain and provide a training and education program  
153 in cellular system issues and personal wireless service issues for  
154 municipal officials and employees. The Connecticut Siting Council  
155 shall provide such program to municipalities without fee.

156 Sec. 8. (NEW) (*Effective from passage*) The Connecticut Siting Council  
157 shall be a party in any court proceeding concerning a decision by a  
158 zoning commission on the siting of telecommunications towers in  
159 accordance with zoning regulations adopted under section 1 of this act.

160 Sec. 9. Subsection (a) of section 16-50i of the general statutes is  
161 repealed and the following is substituted in lieu thereof (*Effective from*  
162 *passage*):

163 (a) "Facility" means: (1) An electric transmission line of a design  
164 capacity of sixty-nine kilovolts or more, including associated  
165 equipment but not including a transmission line tap, as defined in  
166 subsection (e) of this section; (2) a fuel transmission facility, except a  
167 gas transmission line having a design capability of less than two  
168 hundred pounds per square inch gauge pressure; (3) any electric  
169 generating or storage facility using any fuel, including nuclear  
170 materials, including associated equipment for furnishing electricity but  
171 not including an emergency generating device, as defined in  
172 subsection (f) of this section or a facility (i) owned and operated by a  
173 private power producer, as defined in section 16-243b, (ii) which is a  
174 qualifying small power production facility or a qualifying  
175 cogeneration facility under the Public Utility Regulatory Policies Act of  
176 1978, as amended, or a facility determined by the council to be

177 primarily for a producer's own use, and (iii) which has, in the case of a  
178 facility utilizing renewable energy sources, a generating capacity of  
179 one megawatt of electricity or less and, in the case of a facility utilizing  
180 cogeneration technology, a generating capacity of twenty-five  
181 megawatts of electricity or less; (4) any electric substation or  
182 switchyard designed to change or regulate the voltage of electricity at  
183 sixty-nine kilovolts or more or to connect two or more electric circuits  
184 at such voltage, which substation or switchyard may have a substantial  
185 adverse environmental effect, as determined by the council established  
186 under section 16-50j, and other facilities which may have a substantial  
187 adverse environmental effect as the council may, by regulation,  
188 prescribe; (5) such community antenna television towers and head-end  
189 structures, including associated equipment, which may have a  
190 substantial adverse environmental effect, as said council shall, by  
191 regulation, prescribe; and (6) such telecommunication towers,  
192 including associated telecommunications equipment [.] (A) owned or  
193 operated by the state, a public service company or a certified  
194 telecommunications provider, (B) on or before February 1, 2003, used  
195 in a cellular system, as defined in the Code of Federal Regulations Title  
196 47, Part 22, as amended, other than personal communication services,  
197 as described in 47 USC 153(1)(c), except as provided for in section 2 of  
198 this act, and (C) after February 1, 2003, used to provide personal  
199 wireless service, as defined in 47 USC 332(c)(7), as amended, except  
200 where the zoning commission in which such tower is to be sited has  
201 adopted regulations pursuant to section 1 of this act, or used in a  
202 cellular system, as defined in the Code of Federal Regulations Title 47,  
203 Part 22, as amended, which may have a substantial adverse  
204 environmental effect, as said council shall, by regulation, prescribe.

205 Sec. 10. Section 16-50t of the general statutes is amended by adding  
206 subsection (d) as follows (*Effective from passage*):

207 (NEW) (d) The Connecticut Siting Council may adopt regulations,  
208 in accordance with the provisions of chapter 54, to prescribe fees in an  
209 amount sufficient to cover the reasonable cost of (1) preparation and  
210 maintenance of the telecommunications coverage database and the

211 statewide telecommunications coverage plan, and provision of  
212 technical assistance to municipalities, as required under section 3 of  
213 this act, (2) evaluation of public need for applications and activities in  
214 any court proceedings under section 4 of this act, (3) participation as a  
215 party in local zoning matters under section 5 of this act, (4) provision  
216 of training and education services under section 7 of this act, and (5)  
217 activities in court proceedings under section 8 of this act."